

C H A P.  
XXXIX.  
by the Interest of their Estate, without Diminution of the Principal. Which if too small, the Orphans shall be bound Apprentices by the County Court, till the Age of 21, unless their Education, &c. be undertaken by some Kinsman, &c.

Intestate, or against the Filial Portion of any Child committed to any Guardian, or other Persons, intrusted by the County Court: But the said Orphan shall be maintained and educated by the Interest of their Estate, and the Increase of their Stocks, so far forth as their said Interest and Increase will extend unto. But if the Estate be so small that the Interest or Increase thereof will not extend to a free Education and Maintainance of such Orphans, then such Orphans shall be bound Apprentices to Mariners, or some Handycraft Trade, or other Person, at the Discretion of the County Courts, until they arrive to the Age of Twenty-one Years; except some Kinsman or Relation, or some other charitable Person will maintain and educate them for the Increase of the small Estate they have, without any Diminution of the Principal, which shall always be delivered to the Orphans at the Years hereafter in this Act limited and appointed; then such Kinsman, Relation, or other charitable Person, is thereby obliged to perform what is by this Law before enjoined, and to be ascertained by the County Courts.

Children of a Protestant may be taken from a Papist Mother, &c.

X. **Provided always**, That where any Person, being a Protestant, shall die, and leave a Widow and Children, and such Widow shall intermarry with any Person of the *Romish* Communion, or be herself of that Opinion and Profession, it shall and may be lawful for his Majesty's \* Governor and Council, within this Province, upon Application to them made, to remove such Child or Children out of the Custody of such Parents, and place them where they may be securely educated in the Protestant Religion; and to order such reasonable Maintainance for such Child or Children so removed, out of the Estate or Estates belonging to such Child or Children, in whose Hands soever; having Respect that only the Yearly Profits and Increase thereof be applied thereto, and such Children's Estates be not diminished thereby.

\* By the Act of 1729, *ch.* 24, §, 12 and 13, the County Court may, on Application, remove such Children out of the Mother's Custody, and place them under Protestant Trustees, and allow the Interest of their Estates, or such Part thereof as may be necessary, for their Support, so as not to diminish the principal Estate. But an Appeal shall lie in the Premises from the County Court to the Governor and Council. And the like Care shall be taken, that the Children of all Protestants of the Church of *England*, shall be brought up in the Principles of that Church.

Cattle, &c. to be returned to Orphans in Kind.

XI. **Third**. That all Cattle, Horses and Sheep shall be returned in Kind by the Guardians, or other Persons intrusted with Orphans Estates, (*That is to say,*) so many Cattle, Horses and Sheep, as were delivered to the Guardians or Trustees of the Orphans, and as near as can be, of like Value.

Money, Plate, &c. to be paid in Specie, Household Stuff, &c. to be appraised, and paid in Money or Tobacco.

XII. **Fourth**. That all Money, Plate, Rings and Jewels, be preserved, and not used by the Guardians or Trustees, and delivered to the Orphans when they come to Age. And that all Household Stuff and Lumber be appraised in Money, and not otherwise, and the Value thereof paid to the Orphans as aforesaid, either in Money according to the Appraisement, or in Tobacco at the then Price Current. And in case any Difference shall arise what shall be Price Current at the Day of Payment limited in the Bond taken, the Justices of the County Court, where the Orphan's Estate doth lie, shall then determine what shall be the Price Current.

Male Orphans to be of Age at 21.

Infant Executors, are capable of that Trust at the Age of 17.

XIII. **Fifth**. That every Male Orphan shall be of full Age, to receive his Estate from his Guardian, at the Age of Twenty-one Years, and not before. But in case any Person, by his Last Will and Testament, doth appoint any Person to be his Executor or Executrix, that is full Seventeen Years of Age; that Person, so appointed, shall be adjudged to be of sufficient Age to be Executor or Executrix: And if such Executor or Executrix be under the Age of Seventeen Years, the Administration shall then be committed to such proper Person as the Judge for Probate of Wills and granting Administrations shall legally approve of, *durante Minoritate*, to the Profit, Use and behoof of the Infant Executor or Executrix, and not otherwise, nor in any other Manner.

XIV. **And**